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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,582	01/21/2004	Marshall A. Klingensmith	370054-00017	3473

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INTELLECTUAL PROPERTY  
ALCOA TECHNICAL CENTER, BUILDING C  
100 TECHNICAL DRIVE  
ALCOA CENTER, PA 15069-0001

EXAMINER

KASTLER, SCOTT R

ART UNIT PAPER NUMBER

1742

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/761,582

Applicant(s)

KLINGENSMITH ET AL.

Examiner

Scott Kastler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 20-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/21/04</u> .   | 6) <input type="checkbox"/> Other: _____                          |

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***Election/Restrictions***

Applicant's election with traverse of claims 1-19 (Group I) in the reply filed on 10/27/2006 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the Examiner. This is not found persuasive because as stated in the original restriction requirement, since the fill tube assembly can be employed in different processes other than the one recited in the instant method claims, the apparatus requires different search and considerations than the method.

The requirement is still deemed proper and is therefore made FINAL.

Claims 20-22 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/27/2006.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Redemske et al, Chandley'777, Chandley'973, Chandley'762, Chandley et al and Green et al. Each of Redemske

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et al (tube 50), Chandley'777 (tube 50), Chandley'973 (tube 50), Chandley'762 (tube 90), Chandley et al (tube 90) and Green et al (tube 40) teach a fill tube with a mold engaging end including a radially extending tapered flange portion and a uniform cylindrical tubular body for receiving molten metal, thereby showing all aspects of the above claims.

Claims 4, 5 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by the admitted prior art of the instant disclosure. The admitted prior art of the instant disclosure, as shown at both figure 1 and on pages 8 and 9 teaches a fill tube assembly comprising a fill tube (2) in the form of a tubular member with a radially extending flange (12) at a mold engaging end, and a clamping assembly to maintain a leakproof seal between the mold and tube, where the admitted prior art also meets the limitation of accommodating dimensional variations since these variations could be of any degree, and to some extent the showings of the admitted prior art would allow for small variations in dimension. The admitted prior art of the instant disclosure thereby shows all aspects of the above claims.

Claims 4-9 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Nedic. Nedic teaches a fill tube assembly comprising a fill tube (52) in the form of a tubular member with a radially extending flange (58) at a mold engaging end, and a clamping assembly to maintain a leakproof seal between the mold and tube, where the clamping assembly is made to accommodate dimensional variations (see col. 2 lines 55-60 for example) and the clamping assembly includes a gasket (72) between the flange and mold (since the instant claims do not require that the gasket actually contact the flange), an annular load ring (10), an annular clamping plate (26) engaging the load ring for pressing the fill tube into contact with the mold, and a plurality of fasteners extending through openings (32) into apertures in the mold, thereby

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narrowing a pre-load gap between the plate and mold, thereby showing all aspects of the above claims.

***Claim Rejections - 35 USC § 103***

Claims 10-12 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nedic. As applied to claims 1 and 4 above, Nedic shows all aspects of the above claims except the provision that the flange (58) be of a tapered shape at least on it's non-mold engaging face. However, the flange shape and arrangements of Nedic operate in substantially the same manner (allowing the use of a clamping member to engage a fill tube with a casting mold) with substantially the same results (allowing dimensional variations during the clamping, see again col. 2 lines 55-60). Nedic also does not restrict the shape of the flange, as long as the clamping member can effectively engage the fill tube (the claims of Nedic allow for any desired flange configuration). It has been well settled that where no new or unexpected result is shown to arise therefrom, motivation to alter the shape or configuration of a component shown by the applied prior art would have been a modification obvious to one of ordinary skill in the art at the time the invention was made. See MPEP 2144.04 IV B. In the instant case, as long as the flange of the fill tube allows for dimensional variation, as required by Nedic, and since the claims of Nedic allow for various flange configurations, motivation to employ any desired equally useful flange configuration for the fill tube flange of Nedic would have been a modification obvious to one of ordinary skill in the art at the time the invention was made.

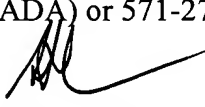
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Kastler whose telephone number is (571) 272-1243. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Roy King can be reached on (571) 272-1244. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Scott Kastler  
Primary Examiner  
Art Unit 1742

sk